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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Amendment to the Commission's Rules
Regarding a Plan for Sharing the
Costs of Microwave Relocation

WT Docket No. 95-157
RM-8643

**PETITION OF THE MSS COALITION FOR CLARIFICATION OR,
IN THE ALTERNATIVE, PARTIAL RECONSIDERATION**

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SUMMARY

The MSS Coalition seeks clarification of the *First Report and Order and Further Notice of Proposed Rule Making ("Order")* in WT Docket No. 95-157, in which the Commission modified its relocation rules and adopted cost-sharing rules for personal communications services ("PCS") bands, 1850-1990 MHz. The Commission stated in the *Order* that the relocation and cost-sharing rules applicable to PCS would apply to all other emerging technologies allocations, including the 2110-2150 and 2160-2200 MHz bands. However, in its earlier *Emerging Technologies* decisions, the FCC clearly announced that it would evaluate the appropriate steps needed to accommodate incumbent licensees occupying spectrum identified for emerging technologies in the context of the specific new services proposed for these bands. In fact, in ET Docket No. 95-18, there is an outstanding rulemaking in which, related to the FCC's proposal therein to allocate the 1990-2025 and 2165-2200 MHz bands to the mobile satellite services ("MSS"), there remain open issues as to whether the incumbent microwave licensees in the 2110-2150 and 2160-2200 MHz bands will have to be relocated in a manner that requires other parties, such as MSS licensees, to reimburse the incumbents for any relocation expense. The MSS Coalition opposes the adoption of such relocation rules.

The *Order*, in contrast with the approach set out in the *Emerging Technologies* proceeding, could be read to say that while modification or tailoring of the relocation, reimbursement, and cost-sharing rules applicable to PCS may be appropriate in light of the characteristics of 2 GHz MSS, such rules, in some form, *will* apply in the 2110-2150 and 2160-2200 MHz bands. However, the *Emerging Technologies* decisions expressly left open the prospect that the feasibility of sharing between new services and incumbent microwave licensees would obviate

the need for relocation, reimbursement, and, by definition, cost-sharing rules, in particular emerging technologies bands.

Accordingly, the Joint Petitioners respectfully request a clarification of the *Order* that, in proceedings devoted to particular emerging technologies bands -- such as ET Docket No. 95-18 -- the Commission will determine, in the first instance, *whether relocation, reimbursement, and cost-sharing rules are necessary at all* in view of the prospects for sharing between new and incumbent licensees. Only where sharing cannot work and relocation will be necessary should the FCC ascertain whether modifications to the relocation, reimbursement, and cost-sharing rules adopted for the PCS bands are appropriate. Such a clarification is important as this policy will promote spectrum sharing and efficiency and underscore the FCC's commitment to facilitating the introduction of new technologies and services, such as 2 GHz MSS, to the American public in as cost-effective a manner as possible.

In the alternative, if the relocation and reimbursement rules as set forth in the *Order* are intended to apply to the 2110-2150/2160-2200 MHz bands, the Joint Petitioners urge the FCC to reconsider their applicability. Reconsideration is warranted because, as the MSS Coalition demonstrated in its May 17, 1996 comments in Docket 95-18, relocation rules are unnecessary to implement MSS and accommodate existing FS licensees: sharing between FS and MSS licensees for an extended period is feasible. Public policy considerations related to the international nature of some 2 GHz MSS systems also offer an independent basis for deciding not to adopt relocation (and cost-sharing) rules. Furthermore, there are numerous distinctions between MSS and PCS that militate against application of the relocation rules adopted for PCS to 2 GHz MSS.

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ATTACHMENT:

Joint Comments of the MSS Coalition, ET Docket No. 95-18, filed May 17, 1996.

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Celsat America, Inc. ("Celsat"), COMSAT Corporation ("COMSAT"), Hughes Space and Communications International ("Hughes"), ICO Global Communications ("ICO"),¹ and Personal Communications Satellite Corporation ("PCSAT")² (collectively, the "MSS Coalition" or "Joint Petitioners"), by their attorneys, and pursuant to Section 1.429 of the Commission's Rules, hereby petitions the FCC for clarification of its *First Report and Order* ("Order") in the above captioned proceeding.³ Specifically, the FCC should clarify that, in the 2110-2150 and 2160-2200 MHz emerging technologies bands, *i.e.*, the non-personal communications services ("PCS") bands, sharing between incumbent fixed service ("FS")

¹ ICO joins in this Petition and supports the positions presented herein, but also notes that some MSS systems filed at the ITU with coverage and service areas over the United States will be independently subject to the applicable international ITU coordination procedures.

² PCSAT is a wholly owned subsidiary of American Mobile Satellite Corporation.

³ *First Report and Order and Further Notice of Proposed Rulemaking*, FCC 96-196, 61 Fed. Reg. 29679 (June 12, 1996).

licensees and new systems will be pursued where feasible and that a regulatory regime based on the relocation of incumbents will be employed only if necessary. The Commission should further clarify that, as a result of the pending rulemaking to allocate spectrum for mobile satellite services ("MSS") in ET Docket No. 95-18,⁴ the agency may determine that relocation, reimbursement, and cost-sharing rules, as set forth in the *Order*, do *not* apply to 2 GHz MSS. In the alternative, if the relocation and reimbursement rules and cost-sharing policy as set forth in the *Order* are intended to apply to the 2110-2150 and 2160-2200 MHz bands, the Joint Petitioners urge the FCC to reconsider their applicability.

As the MSS Coalition explained in its Joint Comments in Docket 95-18,⁵ the microwave relocation and reimbursement rules, which were crafted to address circumstances presented by domestic PCS use of the 1850-1990 MHz band, should not be extended to the 2 GHz MSS bands which include spectrum at 2165-2200 MHz for MSS downlinks.⁶ Immediate relocation of FS licensees is not required in these bands as is the case in the PCS spectrum. Sharing for an extended period between MSS and microwave incumbents is feasible in the proposed MSS downlink (2165-2200 MHz). Moreover, practical engineering solutions

⁴ See *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service*, Notice of Proposed Rulemaking, 10 FCC Rcd 5230 (1995) ("2 GHz MSS Notice").

⁵ Joint Comments of the MSS Coalition, ET Docket No. 95-18 (filed May 17, 1996) ("*May 17 Comments*"). The Joint Petitioners incorporate herein the *May 17 Comments* by reference, a copy of which are attached hereto.

⁶ The MSS downlink at 2165-2200 MHz is occupied by both common carrier and private radio microwave licensees which operate in paired bands at 2110-2130/2160-2180 MHz and 2130-2150/2180-2200 MHz respectively.

are available that eliminate the need for broadcast auxiliary service ("BAS") stations currently in the proposed MSS uplink spectrum (1990-2025 MHz) to displace FS incumbents in the 2110-2145 MHz, as the *2GHz MSS Notice* proposes. Thus, rather than apply the relocation and reimbursement rules contained in the Appendix A of the *Order*, the Commission should adopt in Docket 95-18 the transition plan advocated by the MSS Coalition in its *May 17 Comments* in that proceeding.⁷

I. STATEMENT OF INTEREST

The Joint Petitioners represent a diverse cross-section of participants in the MSS industry. They include potential operators of MSS systems, wholesalers and retailers of MSS services in the U.S. and abroad, investors in MSS systems and MSS equipment manufacturers. This Petition presents a unanimous view on the important sharing issues applicable to the 2110-2150 and 2160-2200 MHz bands and the necessary steps to bring MSS to the American public expeditiously and cost-effectively while fairly accommodating existing FS and BAS operations in the proposed MSS spectrum.

II. BACKGROUND: THE PRO-SHARING APPROACH IN THE *EMERGING TECHNOLOGIES* DECISIONS

In order to understand why clarification or, in the alternative, reconsideration is necessary, it is important to review the recent *Order* against the backdrop of the *Emerging Technologies* decisions.⁸ As the MSS Coalition explained in its *Comments*, the FCC

⁷ See *May 17 Comments* at 3, 20-25.

⁸ *Redevelopment of Spectrum to Encourage Incorporation in the Use of New Telecommunications Technologies*, First Report and Order and Third Notice of Proposed

historically has supported sharing solutions as a means of expediting the introduction of new services.⁹ The *Emerging Technologies* decisions explicitly extended this trend as the policy of choice in the emerging technologies bands, including 2110-2150 and 2160-2200 MHz.

Specifically, the Commission pronounced in its *Emerging Technologies* decisions that it would evaluate the steps needed to accommodate incumbent licensees occupying that spectrum in the context of the specific new services proposed for these bands:

. . . we are allocating the 1850-1990, 2110-2150, and 2160-2200 MHz bands for the development and implementation of emerging technologies *on a shared basis with the fixed service*. The use of these allocations will be developed in ongoing and future proceedings that will address particular emerging technology services. When specific services are allocated in these bands *we will adopt specific interference standards to allow for the sharing of this spectrum*. These standards will protect operations of incumbent licensees from harmful interference caused by operations of emerging technology licensees.¹⁰

Because the agency was not making allocations to specific services in the *Emerging Technologies* orders, it acknowledged that "the feasibility of spectrum sharing between new services and fixed microwave services has not been fully determined and will depend upon the

Rulemaking, 7 FCC Rcd 6886 (1992) ("First ET Order"), *recon.* Third Report and Order and Memorandum Opinion and Order, 8 FCC Rcd 6589 (1993) ("Third ET Order"), *recon.*, Memorandum Opinion and Order, 9 FCC Rcd 1993 (1994) ("ET Reconsideration Order").

⁹ *MSS Coalition Comments* at 5-6.

¹⁰ *First ET Order*, 7 FCC Rcd at 6890 (emphases added). *See also* 47 C.F.R. § 2.106 NG 153 (2160-2200 MHz allocated to emerging technologies on a "co-primary" basis with fixed and mobile services). *See also First ET Order*, 7 FCC Rcd at 6891 (the FCC encourages "spectrum sharing between emerging technologies services and incumbent 2 GHz fixed microwave users whenever technically feasible").

technical design of individual new systems and services "¹¹ In other words, once the FCC determines the specific service that will occupy each emerging technologies allocation, the feasibility of spectrum sharing with incumbent licensees will be examined anew. Despite the need to resolve these issues in particular circumstances, the FCC was "hopeful" that sharing techniques to "allow co-primary operation of some emerging technologies with existing fixed microwave services on a non-interference basis *without the need for any relocation agreements*" would "prove workable."¹² The FCC noted that "[a]s other future services that use emerging technologies develop, sharing by those will be addressed in subsequent rule making proceedings."¹³

III. THE COMMISSION SHOULD CLARIFY THAT THE APPROACH TO BE TAKEN WITH RESPECT TO INCUMBENT MICROWAVE LICENSEES IN THE 2110-2150 AND 2160-2200 MHZ BANDS IS TO BE RESOLVED IN DOCKET 95-18.

As explained above, the *Emerging Technologies* orders make it incumbent upon the Commission to evaluate carefully the prospects for sharing when entities planning to use one of the emerging technologies allocations make strong demonstrations that sharing will be feasible. Where sharing can be practicably achieved, relocation, reimbursement and cost-

¹¹ *Id.*

¹² *Id.* 6891 (emphasis added).

¹³ *Id.* In its subsequent orders in the *Emerging Technologies* proceeding, the FCC confirmed its strong preference for sharing emerging technologies spectrum with incumbents where it proves feasible. See, e.g., *Third ET Order*, 8 FCC Rcd at 6589 ("the fair and equitable sharing of 2 GHz spectrum by new services and the existing fixed microwave services that currently use these frequencies"); *id.* at 6596 (relocation of incumbents would be called for only "where necessary"). *Accord ET Reconsideration Order*, 9 FCC Rcd at 1943.

sharing rules are unnecessary. Whether sharing will be required or whether relocation, reimbursement and cost-sharing rules will be adopted is a matter to be determined in the context of consideration of the specific service proposals in allocation proceedings affecting the emerging technologies bands. Accordingly, the *2 GHz MSS Notice* sought comment on the applicability of the relocation and reimbursement rules adopted for the PCS bands to 2110-2150 and 2160-2200 MHz.¹⁴

In the *Order*, the FCC appeared to confuse the approach announced in the *Emerging Technologies* proceedings and applicable to the 2110-2150 and 2160-2200 MHz bands. In particular, the *Order* states that the microwave relocation rules already apply to all emerging technology services and that the cost-sharing policy and relocation rule clarifications, adopted in the *Order*, should apply in the 2110-2150 and 2160-2200 MHz bands.¹⁵ At the same time, the Commission noted that "as new services develop, we may review our relocation rules and make *modifications* to these rules where appropriate."¹⁶ Indeed, with respect to 2 GHz MSS and Docket 95-18 in particular, the FCC stated that the *Order* "does not preclude us from *tailoring* our MSS relocation rules to the specific needs and requirements of MSS licensees and incumbents operating in the MSS band."¹⁷ Finally, the Commission concluded that while

¹⁴ *2 GHz MSS Notice*, 10 FCC Rcd at 5232, ¶¶ 11-13.

¹⁵ *Order* ¶ 92. Curiously, the FCC cited only the Comments of AT&T Corp. for this proposition. *Id.* n. 258.

¹⁶ *Id.* ¶ 92 (emphasis added).

¹⁷ *Id.* n. 259 (emphasis added).

cost-sharing should apply to all emerging technology services, specific cost-sharing rules should be developed in future proceedings.¹⁸

In brief, the Commission's *Order* could be read to say that while modifications or tailorings to the relocation and reimbursement rules and cost-sharing policy in the 2110-2150 and 2160-2200 MHz bands may be appropriate in light of the characteristics of 2 GHz MSS, such rules, in some form, *will* apply. However, as explained above, the *Emerging Technologies* decisions expressly left open the prospect that the feasibility of sharing between new services and incumbent microwave licensees would obviate the need for relocation and reimbursement rules (and, implicitly, cost-sharing rules) in particular emerging technologies bands.

As explained in the *May 17 Comments*, relocation and reimbursement rules, in fact, are unnecessary for the 2 GHz MSS systems which will occupy the 2165-2200 MHz band. In the *2 GHz MSS Notice*, the FCC proposed to allocate 1990-2025 and 2165-2200 MHz to MSS for uplink and downlink spectrum, respectively. To implement these allocations, the Commission noted that BAS Channel 1 and 2 licensees would have to be accommodated in the MSS uplink spectrum (1990-2025 MHz) and FS incumbents, in the MSS downlink band (2165-2200 MHz). Specifically, the Commission proposed that FS licensees in the 2165-2200 MHz bands would have to be relocated.¹⁹ Because those FS licensees also have paired channels in the

¹⁸ *Id.* ¶ 92.

¹⁹ The MSS Coalition has suggested an alternative transition plan for the 2 GHz MSS band which obviates the need for relocation as proposed by the FCC.

2110-2150 MHz band, this band would be cleared as well due to the relocation of 2165-2200 licensees. Notably, were the Commission to adopt its proposal, the resulting availability of the 2110-2150 MHz band for new services would *not* benefit MSS directly as would the availability of the 2165-2200 MHz band. On the belief that BAS and MSS could not share the 1990-2025 MHz band, however, the FCC proposed in Docket 95-18 to move BAS Channel 1 and 2 licensees currently in this band to 2110-2145 MHz. If adopted, this proposed migration of BAS operations would independently raise the need to accommodate the FS licensees in 2110-2150 MHz, for example through relocation.

The MSS Coalition explained in its *May 17 Comments* that sharing between FS and MSS licensees for an extended period is practical, such that relocation of incumbents from the 2165-2200 MHz band is not a prerequisite to the commencement of 2 GHz MSS.²⁰ Moreover, engineering solutions are available that utilize the remaining BAS allocations at 2025-2110 MHz more efficiently and obviate the need to relocate BAS operations from BAS Channels 1 and 2 (1990-2025 MHz) to 2110-2145 MHz and, thus, to displace microwave incumbents in the 2110-2150 MHz band.²¹ Additionally, public policy considerations related to the international nature of some 2 GHz MSS systems offer an independent basis for deciding not

²⁰ *May 17 Comments* at 8-14. To apply the relocation and reimbursement rules developed for the PCS bands to 2 GHz MSS in the face of strong evidence that sharing is feasible would appear to contravene the Commission's own orders and policies in the *Emerging Technologies* proceeding (without a rational explanation thereof) and thus run afoul of the Administrative Procedures Act.

²¹ *See Id.* at 14-17.

to adopt relocation rules.²²

Furthermore, even assuming *arguendo* that some relocation rules should apply to 2 GHz MSS, there are numerous distinctions between MSS and PCS that militate against the application of the relocation rules adopted for PCS to 2 GHz MSS. MSS licensees will be far fewer in number than in PCS and, because MSS will be nationwide, will each have to accommodate far more FS licensees than any PCS licensees. Moreover, whereas PCS essentially involves a single system design, MSS systems will use satellite-specific designs hindering the type of negotiations contemplated under the PCS rules. Further, the voluntary/involuntary negotiation periods adopted for PCS, which were crafted based on a perception that "immediate" relocation of incumbent operations is necessary to implement PCS, should not apply to 2 GHz MSS where sharing for an indefinite period is feasible. In short, incumbent FS licensees need not be relocated pursuant to rules applicable in the PCS bands in order to implement 2 GHz MSS.

In addition, the cost-sharing rules adopted in the *Order* clearly were designed specifically for PCS based on its licensing scheme and the fact that relocation and reimbursement rules were necessary.²³ Because relocation and reimbursement rules are not necessary for 2 GHz MSS, neither is cost-sharing. In any event, the FCC has not adopted a licensing scheme for 2 GHz MSS, making it premature to conclude that cost-sharing should apply to 2 GHz MSS.

²² See *id.* at 17-20.

²³ See, e.g., *Order*, Appendix A at A-14 to A-18.

Accordingly, the Joint Petitioners respectfully request a clarification of the *Order* to the effect that, in proceedings devoted to particular emerging technologies bands, the FCC will determine, in the first instance, *whether relocation, reimbursement, and cost-sharing rules are necessary at all* in view of the prospects for sharing between new and incumbent licensees. Only when such rules are appropriate will the FCC proceed to ascertain whether modifications to the relocation, reimbursement, and cost-sharing rules adopted for the PCS bands are appropriate. Such a clarification is important as this policy -- in the 2110-2150 and 2150-2200 MHz bands, for example -- will promote spectrum sharing and efficiency and underscore the FCC's commitment to facilitating the introduction of new technologies and services to the American public in as cost-effective a manner as possible

IV. IN THE ALTERNATIVE, THE FCC SHOULD RECONSIDER THE APPLICABILITY OF RELOCATION, REIMBURSEMENT, AND COST-SHARING RULES FOR THE PCS BANDS TO 2 GHZ MSS BANDS.

If the FCC intended, in fact, to determine in the *Order* that the relocation, reimbursement, and cost-sharing rules adopted for the PCS bands were to apply to 2110-2150 and 2160-2200 MHz, then the MSS Coalition seeks reconsideration of the decision. Reconsideration is warranted because, unlike the situation between PCS and incumbent FS licensees, sharing between MSS and FS is possible for an extended period. Moreover, the accommodation of BAS licensees in the 1990-2025 MHz to permit the implementation of the MSS uplink does not require the relocation of FS licensees at 2110-2145 Mhz.

A. The MSS Downlink (2165-2200 MHz).

As exemplified by actions taken at WRC-95, the views toward coordination between MSS and FS licensees are extremely optimistic. The conferees, confident that MSS and FS operations could share for a substantial period before MSS traffic levels are at a maximum (thus permitting FS operations gradually to transfer out of the MSS downlink band by the year 2005), made resolutions and recommendations to develop MSS/FS sharing methodologies.²⁴ Since WRC-95, much has been accomplished to refine the methodologies for coordination and further demonstrate the feasibility of sharing. Specifically, several ITU-R working groups have been deeply engaged in the development of sharing/coordination methodologies since WRC-95, and these efforts have reached advanced stages.²⁵ In addition, MSS and FS industry representatives have met informally in this country concerning the prospects for sharing and appear to concur with the wisdom of additional discussions to explore these matters.²⁶ In the Joint Petitioners' view, MSS/FS sharing can work

²⁴ See *May 17 Comments* at 9.

²⁵ *Id.* at 9-10.

²⁶ *Id.* at 11-12. Based on a COMSAT proposal supported by other MSS interests, the Telecommunications Industry Association ("TIA") will undertake a detailed, technical examination of the prospects for sharing the 2 GHz MSS downlink with U.S.-based terrestrial microwave facilities. TIA has agreed to form a special joint working group, sponsored jointly by the Spectrum/Orbit Utilization Section under the Satellite Communications Division of TIA and the Fixed Point-to-Point Microwave Section under the Network Equipment Division of TIA, to study the issue. The first meeting of the joint working group will be held on August 1, 1996 at TIA.

B. The 2110-2150 MHz Band.

Although the Joint Petitioners strongly believe that the MSS downlink can be shared with the FS incumbents for an extended period, the *2 GHz MSS Notice* contemplates that FS licensees may have to move for another reason. Specifically, the *2 GHz MSS Notice* raises the issue that BAS Channels 1 and 2 licensees in the MSS uplink (1990-2025 MHz) may be relocated to the FS band at 2110-2145 MHz. FS licensees use paired channels, with one channel in the 2110-2150 MHz band and the other channel in the 2160-2200 MHz band. If the BAS licensees move to the 2110-2145 MHz band, then FS licensees in the MSS downlink band will have to move regardless of whether they can share the downlink spectrum.

While the MSS Coalition does not believe BAS and MSS operations can reliably share the same spectrum, *i.e.*, the MSS uplink, it is confident there are several practical engineering alternatives to relocating the occupants of BAS Channels 1 and 2 (which cover the MSS uplink) to the 2110-2145 MHz FS band.²⁷ For example, the prospects for using rechannelization and/or digital techniques to allow all BAS licensees to utilize the spectrum currently used by BAS Channels 3-7 (2025-2110 MHz) without a degradation of service are very promising.²⁸ Requiring such measures would be appropriate given the large amounts of spectrum available in several bands for BAS operations (almost 370 MHz) and the very

²⁷ Celsat believes, and has filed comments in ET Docket 95-18 stating, that sharing between its geostationary 2 GHz MSS system and BAS is feasible

²⁸ *Id.* at 15-16 and nn. 38, 39.

inefficient use of the spectrum made by BAS analog equipment.²⁹ If BAS were to rechannelize or digitalize or migrate to a new home outside the 2 GHz band, then FS licensees could remain in 2110-2145 MHz and share the 2165-2200 MHz band with MSS for a reasonable period of time.

C. International Considerations.

The application of relocation and reimbursement rules to the MSS spectrum allocations would be unsound as a matter of public policy because of the international nature of 2 GHz MSS. The provision of international MSS will require a significant degree of international regulatory coordination. To date the United States has taken a leadership role in the efforts to make international MSS a reality and to bring the benefits of MSS to the public as rapidly as possible. The FCC should endeavor to ensure that the U.S. maintains this position by seeing that the U.S. regulatory framework is in accord with the approaches taken by other countries. Without imposing unnecessary cost burdens on MSS, the FCC should seek to harmonize its approach with international trends. The application in the MSS bands of relocation and reimbursement rules like those employed in the PCS bands, would be diametrically opposed to international developments.³⁰

²⁹ *Id.* at 16-17 & n. 41.

³⁰ *See id.* at 17-20.

* * *

Accordingly, the Joint Petitioners firmly believe, based upon the significant advancements toward development of FS/MSS sharing methodologies, the prospects for BAS engineering alternatives for Channels 1 and 2 licensees, and the desirability of fostering cooperation within the international community, that relocation and reimbursement rules for the MSS downlink are not necessary. Therefore, the Commission should, if clarification of the *Order* as suggested above is not appropriate, vacate the relocation, reimbursement, and cost-sharing rules to the extent they apply to 2110-2150 and 2160-2200 MHz. In addition, the Commission should make clear that the eventual steps taken in those bands to accommodate incumbent licensees will be determined in light of the record in Docket 95-18, as contemplated by the *Emerging Technologies* decisions.

V. CONCLUSION

For the foregoing reasons, the FCC should clarify the *Order* to the effect that the Commission will determine whether relocation, reimbursement, and cost-sharing rules should even apply to the 2110-2150 and 2160-2200 MHz bands in proceedings devoted to the allocation of that spectrum, *i.e.*, ET Docket No. 95-18. In the event the FCC concludes that such clarification is not consistent with its intent in the *Order*, the FCC should reconsider the applicability of the relocation, reimbursement, and cost-sharing rules to the 2110-2150/2160-2200 MHz bands.

Respectfully submitted.

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SUMMARY

The time is ripe for the FCC to adopt the 2 GHz MSS allocation proposed in this proceeding (1990-2025 and 2165-2200 MHz). Immediately following this allocation, the Commission should open a short window to allow the filing of MSS satellite systems. These actions are needed to ensure the service and operational rules are developed in a timely manner and that the benefits of 2 GHz MSS services are introduced to the public as rapidly as possible.

The MSS allocation, of course, raises the question of how to accommodate the existing licensees in the MSS downlink and uplink spectrum bands. The proposed MSS downlink spectrum (2165-2200 MHz) is currently used by fixed service microwave ("FS") operators and the MSS uplink spectrum (1990-2025 MHz) constitutes broadcast auxiliary service ("BAS") Channels 1 and 2. The *Notice* assumes that the existing licensees in the affected bands will have to relocate to other frequency bands at the MSS licensees' expense, namely FS licensees to frequencies above 2 GHz and Channel 1 and 2 BAS systems to the 2110-2145 MHz band.

However, the Joint Commentors submit that relocation and reimbursement rules of the sort adopted by the FCC for the personal communications services ("PCS") bands are not necessary in the MSS bands. Unlike the situation between PCS and incumbent FS licensees at 1850-1990 MHz, sharing is feasible for an extended period between FS licensees and MSS systems. Longstanding Commission policy has favored sharing as the quickest and most economical way to introduce new uses in existing allocations, as well as the most spectrally efficient. In the *Emerging Technologies* proceedings that laid the ground work for the current MSS spectrum allocation proposal, the Commission made clear that it contemplated